

Unrelated income; school operating ski facility. An exempt school operates a ski facility for use in its physical education program and also for use, to a substantial degree, for recreational purposes by students attending the school and members of the public who are required to pay slope and ski lift fees comparable to nearby commercial facilities. The recreational use of the facility by students is substantially related to the school's exempt purposes and the income derived from the student's use of the facility is not from unrelated trade or business under section 513 of the Code. However, income from use of the facility by the public is from unrelated trade or business.

Advice has been requested whether, under the circumstances described below, income derived from ski slope and ski lift fees by a school, exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, is income from unrelated trade or business within the meaning of section 513.

The school operates a ski facility that is about a 30-minute drive from campus. In addition to being used in the school's physical education program, the facility is also used, to a substantial degree, for recreational purposes by students attending the school and by members of the general public. The operation of the facility, except with respect to the physical education program, is substantially similar to that of commercial ski facilities. Persons using the facility for recreational purposes are required to pay slope and ski lift fees that are comparable to fees charged by nearby commercial ski facilities.

Section 513(a) of the Code defines the term 'unrelated trade or business' as any trade or business the conduct of which is not substantially related (aside from the need of an organization for income or funds or the use it makes of the profits derived) to the exercise or performance by an organization of its exempt purposes or functions.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that a trade or business is 'substantially related' only if the production or distribution of the goods or the performance of the service from which the gross income is derived contributes importantly to the accomplishment of the purposes for which exemption was granted.

Section 513(c) of the Code provides that an activity does not lose identity as trade or business merely because it is carried on within a larger complex of other to the exempt purposes of the related to the exempt purposes of the organization.

The use of the school's ski facility by its students for recreational purposes contributes importantly to the accomplishment of the school's exempt purposes and, thus, is substantially related to the exercise or performance of its

educational purposes. Accordingly, income derived from the school's students for such use of the ski facility is not income from unrelated trade or business.

On the other hand, charging the general public commercially comparable slope and ski lift fees is unrelated trade or business within the meaning of section 513 of the Code. Providing recreational facilities to the general public, in the manner described above, is not substantially related to the exercise or performance of the school's exempt purposes. Accordingly, income derived from the general public from slope and ski lift fees is income from unrelated trade or business within the meaning of section 513 of the Code.